

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

JANICE GILMORE,

Plaintiff,

v.

FEDERATED DEPARTMENT STORES,
INC., et al.,

Defendants.

HON. JEROME B. SIMANDLE

Civil No. 06-3020 (JBS-AMD)

**ORDER TO CANCEL HEARING AND
DISMISS CONTEMPT MOTION**

This matter is before the Court upon Defendant Macy's Retail Holdings, Inc.'s motion to hold counsel for Plaintiff, Keith Smith Esq., in contempt [Docket Item 150], and Magistrate Judge Donio's Report and Recommendation with respect to the motion [Docket Item 163]. Counsel for Defendant Macy's Retail Holdings, Inc. and Mr. Smith have reported to the Court that they have reached an agreement that makes the motion and recommendation moot.

THEREFORE IT IS this 27th day of **September, 2010** hereby ORDERED that Defendant's motion for a contempt order [Docket Item 150] is **DISMISSED** without prejudice to reopening this matter and refiling the motion in the event that the terms of the settlement are not met; and it is further

ORDERED that the hearing set for September 28, 2010 is **CANCELED**; and it is further

ORDERED that the question of whether to adopt the Report and Recommendation is **DISMISSED** as moot without prejudice to

consideration in the event that counsel move to reopen the matter; and it is further

ORDERED that the Court retains jurisdiction to enforce the terms of the settlement and the Court's prior orders regarding sanctions against Mr. Smith.

s/ Jerome B. Simandle
JEROME B. SIMANDLE
U.S. District Judge